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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JUAN ROMERO, FRANK
TISCARENO, and KENNETH
ELLIOTT, on behalf of themselves, and
all others similarly situated,

Plaintiffs,

v.

SECURUS TECHNOLOGIES, INC,

Defendant.

Case No.: 16-cv-1283-JM-MDD

CLASS ACTION

**DECLARATION OF ROBERT
TEEL IN SUPPORT OF
PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

Date: November 13, 2017

Time: 10:00 a.m.

Place: Courtroom 5D

Judge: Hon. Jeffrey T. Miller

1 Pursuant to 28 U.S.C. § 1746, I, Robert Teel, hereby declare and state as
2 follows:

3 1. I am a member in good standing of the State Bar of California, and the
4 United States District Court for the Southern District of California. I, along with
5 my co-counsel, am an attorney representing Plaintiffs Juan Romero, Frank
6 Tiscareno, and Kenneth Elliott ("Plaintiffs") and the proposed class in the above-
7 captioned matter. I make this Declaration in support of Plaintiffs' Motion for
8 Class Certification. This declaration is based on my own personal knowledge, and
9 if called to testify, I could and would do so competently on the matters stated
10 herein.

11 2. Attached hereto as **Exhibit 1** is a true and correct copy of a
12 Certification of Custodian Of Records from Captain Frank Clamser (the
13 "Certification") of the San Diego County Sheriff's Office (the "Sheriff") certifying
14 the records produced in response to Plaintiffs' Subpoena to Produce Documents,
15 Information, or Objects or to Permit Inspection of Premises in a Civil Action to the
16 San Diego County Sheriff's Office, Sheriff William D. Gore dated July 31, 2017
17 (the "Sheriff's Subpoena") served on the Sheriff on August 1, 2017, as accurate and
18 complete records of regularly conducted activity.

19 3. Attached hereto as **Exhibit 2** is a redacted summary I prepared of
20 seven call detail reports (the "Sheriff's Call Reports") for the period from April 1,
21 2014 through August 5, 2014 produced in response to the Sheriff's Subpoena (the
22 "Summary Report") identifying 116 telephone calls by persons in the custody of
23 the Sheriff (a "Detainee") on attorney telephone numbers requested to be marked
24 private or "do not record" (a "Private Number"). The unredacted Sheriff's Call
25 Reports are the subject of Plaintiffs' Motion to File Class Certification Documents
26 Under Seal in support of this Motion, and are being lodged with the Court under
27 seal concurrently herewith.
28

1 4. The names of attorneys who own the Private Numbers are not
2 included in the Sheriff's Call Reports. I have either called the Private Numbers, or
3 looked them up in publicly available records, and identified the attorneys who own
4 the numbers and added their names to Exhibit 2. The Summary Report sets forth
5 the detention facility, the attorney telephone number, the attorney's name, the call
6 start date and time, the call end date and time, the duration of the call, and the
7 name of the Detainee.

8 5. Attached hereto as **Exhibit 3** is a true and correct copy of an email
9 exchange dated April 29, 2014 from Kristopher Aldeman, Major Account Manager
10 - West for Defendant, to Captain Frank Clamser of the Sheriff's Office produced in
11 response to the Sheriff's Subpoena and certified to be accurate and complete
12 records of regularly conducted activity.

13 6. Attached hereto as **Exhibit 4** is a true and correct copy of an email
14 with a spreadsheet attached (see Exhibit 1 to Motion to File Documents Under Seal
15 filed concurrently herewith for a copy of the spreadsheet) dated April 14, 2014
16 from Captain Frank Clamser of the Sheriff's Office to Marlon Miller, a Technical
17 Support Manager for Defendant, produced in response to the Sheriff's Subpoena
18 and certified to be accurate and complete records of regularly conducted activity.

19 7. Attached hereto as **Exhibit 5** is a true and correct copy of an email
20 string dated April 29, 2014 between Christopher Hudson, an Account Relations
21 Liaison for Defendant, and Captain Frank Clamser of the San Diego County
22 Sheriff's Office, and other employees of Defendant, including without limitation,
23 Marlon Miller, Kristopher Aldeman, Jonathan Jones, and Nancy Brettell produced
24 in response to the Sheriff's Subpoena and certified to be accurate and complete
25 records of regularly conducted activity.

26 8. Attached hereto as **Exhibit 6** is a true and correct copy of an email
27 with a spreadsheet attached (see Exhibit 2 to Motion to File Documents Under Seal
28 filed concurrently herewith for a copy of the spreadsheet) dated April 29, 2014

1 from Captain Frank Clamser of the Sheriff's Office to Christopher Hudson and
2 Kristopher Aldeman produced in response to the Sheriff's Subpoena and certified
3 to be accurate and complete records of regularly conducted activity.

4 9. Attached hereto as **Exhibit 7** is a true and correct copy of an email
5 dated May 5, 2014 between Christopher Hudson, an Account Relations Liaison for
6 Defendant, and Captain Frank Clamser of the San Diego County Sheriff's Office,
7 and other employees of Defendant, including without limitation, Marlon Miller,
8 Kristopher Aldeman, Jonathan Jones, and Nancy Brettell produced in response to
9 the Sheriff's Subpoena and certified to be accurate and complete records of
10 regularly conducted activity.

11 10. Attached hereto as **Exhibit 8** is a true and correct copy of an email
12 dated April 30, 2014 between Christopher Hudson, an Account Relations Liaison
13 for Defendant, and Captain Frank Clamser of the San Diego County Sheriff's
14 Office, and other employees of Defendant, including without limitation, Marlon
15 Miller, Kristopher Aldeman, Jonathan Jones, and Nancy Brettell produced in
16 response to the Sheriff's Subpoena and certified to be accurate and complete
17 records of regularly conducted activity.

18 11. Attached hereto as **Exhibit 9** is a true and correct copy of an email
19 dated May 22, 2014 between Christopher Hudson, an Account Relations Liaison
20 for Defendant, and Captain Frank Clamser of the San Diego County Sheriff's
21 Office, and other employees of Defendant, including without limitation, Marlon
22 Miller, Kristopher Aldeman, and Nancy Brettell produced in response to the
23 Sheriff's Subpoena and certified to be accurate and complete records of regularly
24 conducted activity.

25 12. Attached hereto as **Exhibit 10** is a true and correct copy of an email
26 dated April 29, 2014 between Christopher Hudson and Captain Frank Clamser of
27 the San Diego County Sheriff's Office, and other employees of Defendant,
28 including without limitation, Marlon Miller, Kristopher Aldeman, Jonathan Jones,

1 and Nancy Brettell produced in response to the Sheriff's Subpoena and certified to
2 be accurate and complete records of regularly conducted activity.

3 13. Attached hereto as **Exhibit 11** is a true and correct copy of an email
4 with a spreadsheet attached (see Exhibit 3 to Motion to File Documents Under Seal
5 filed concurrently herewith for a copy of the spreadsheet) dated May 21, 2014
6 from Captain Frank Clamser of the Sheriff's Office to Christopher Hudson and
7 Kristopher Aldeman, produced in response to the Sheriff's Subpoena and certified
8 to be accurate and complete records of regularly conducted activity.

9 14. Attached hereto as **Exhibit 12** is a true and correct copy of an email
10 string dated May 21, 2014 between Christopher Hudson and Captain Frank
11 Clamser of the Sheriff's Office, and other employees of Defendant including
12 without limitation Kristopher Aldeman, and Nancy Brettell produced in response
13 to the Sheriff's Subpoena and certified to be accurate and complete records of
14 regularly conducted activity.

15 15. Attached hereto as **Exhibit 13** is a true and correct copy of an email
16 dated May 22, 2014 between Christopher Hudson and Captain Frank Clamser of
17 the Sheriff's Office, and other employees of Defendant, including without
18 limitation, Marlon Miller, Kristopher Aldeman, and Nancy Brettell produced in
19 response to the Sheriff's Subpoena and certified to be accurate and complete
20 records of regularly conducted activity.

21 16. Attached hereto as **Exhibit 14** is a true and correct copy of an email
22 string dated June 17, 2014 between Christopher Hudson and Captain Frank
23 Clamser of the Sheriff's Office, and other employees of Defendant, including
24 without limitation, Marlon Miller, Kristopher Aldeman, and Nancy Brettell
25 produced in response to the Sheriff's Subpoena and certified to be accurate and
26 complete records of regularly conducted activity.

27 17. Attached hereto as **Exhibit 15** is a true and correct copy of an email
28 string dated June 12, 2014 and June 13, 2017 between Christopher Hudson and

1 Captain Frank Clamser of the Sheriff's Office, produced in response to the
2 Sheriff's Subpoena and certified to be accurate and complete records of regularly
3 conducted activity

4 18. Attached hereto as **Exhibit 16** is a true and correct copy of an email
5 with a spreadsheet attached (see Exhibit 4 to Motion to File Documents Under Seal
6 filed concurrently herewith for a copy of the spreadsheet) June 12, 2014 from
7 Captain Frank Clamser of the Sheriff's Office to Christopher Hudson and
8 Kristopher Aldeman, produced in response to the Sheriff's Subpoena and certified
9 to be accurate and complete records of regularly conducted activity.

10 19. Attached hereto as **Exhibit 17** is a true and correct copy of an email
11 string dated June 19, 2014 and June 20, 2014 between Captain Frank Clamser of
12 the Sheriff's Office and Krisopher Aldeman, and other employees of Defendant,
13 including without limitation, Ankur Desai, Sr. Manager Technical Support, Marlon
14 Miller, Kristopher Aldeman, Debbie Cates, Danny DeHoya, Joshua Conklin, Ron
15 Davis, Doug Bland, and Uday Parekh, produced in response to the Sheriff's
16 Subpoena and certified to be accurate and complete records of regularly conducted
17 activity.

18 20. Attached hereto as **Exhibit 18** is a true and correct copy of an email
19 string with a spreadsheet attached (see Exhibit 5 to Motion to File Documents
20 Under Seal filed concurrently herewith for a copy of the spreadsheet) dated July 1,
21 2014 and July 2, 2014 between Captain Frank Clamser of the Sheriff's Office and
22 Christopher Hudson, and other employees of Defendant, including without
23 limitation, Kristopher Aldeman and Nancy Brettell produced in response to the
24 Sheriff's Subpoena and certified to be accurate and complete records of regularly
25 conducted activity.

26 21. Attached hereto as **Exhibit 19** is a true and correct copy of an email
27 with a spreadsheet attached (see Exhibit 6 to Motion to File Documents Under Seal
28 filed concurrently herewith for a copy of the spreadsheet) dated July 18, 2014 from

1 Captain Frank Clamser of the Sheriff's Office to Christopher Hudson produced in
2 response to the Sheriff's Subpoena and certified to be accurate and complete
3 records of regularly conducted activity.

4 22. Attached hereto as **Exhibit 20** is a true and correct copy of an email
5 string dated July 18, 2014 between Captain Frank Clamser of the Sheriff's Office
6 and Christopher Hudson, produced in response to the Sheriff's Subpoena and
7 certified to be accurate and complete records of regularly conducted activity.

8 23. Attached hereto as **Exhibit 21** is a true and correct copy of an email
9 string dated August 5, 2014 between Captain Frank Clamser of the Sheriff's Office
10 and Christopher Hudson, produced in response to the Sheriff's Subpoena and
11 certified to be accurate and complete records of regularly conducted activity.

12 24. Attached hereto as **Exhibit 22** is a true and correct copy of an email
13 with a spreadsheet attached (see Exhibit 7 to Motion to File Documents Under Seal
14 filed concurrently herewith for a copy of the spreadsheet) dated August 5, 2014
15 from Captain Frank Clamser of the Sheriff's Office to Christopher Hudson
16 produced in response to the Sheriff's Subpoena and certified to be accurate and
17 complete records of regularly conducted activity.

18 25. On January 25, 2016, I submitted a California Public Records Act
19 request under Cal. Gov. Code § 6250, *et seq.* to the Sheriff requesting public
20 records regarding the Sheriff's operations and business with Defendant (the "CPRA
21 Request"). Attached hereto as **Exhibit 23** is a true and correct copy of the Sheriff's
22 cover letter dated March 3, 2016 accompanying the copies of approximately 2,300
23 emails between the Sheriff and Defendant which were produced to me in response
24 to my CPRA Request. According to the Certification, all emails to and from the
25 Sheriff's Office are saved on a server, the server is secure, and email files on the
26 server cannot be edited or manipulated.

27 26. Attached hereto as **Exhibit 24** is true and correct copy of a public
28 record email string dated March 25, 2014 through April 4, 2014 between Captain

1 Frank Clamser of the Sheriff's office and Marlon Miller, a Technical Support
2 Manager for Defendant, Christopher Hudson, an Account Relations Liaison for
3 Defendant, and including Kristopher Aldeman, Major Account Manager - West for
4 Defendant, which was produced to me in response to my CPRA Request.

5 27. Attached hereto as **Exhibit 25** is true and correct copy of an email
6 string dated May 3, 2013 through May 7, 2013 between Captain Clamser and
7 Kristopher Aldeman produced to me in response to my CPRA Request.

8 28. Attached hereto as **Exhibit 26** is true and correct copy of an email
9 exchange dated March 25, 2014 between Captain Clamser and Kristopher
10 Aldeman produced to me in response to my CPRA Request.

11 29. Attached hereto as **Exhibit 27** is a true and correct copy of a
12 Subpoena to Produce Documents, Information, or Objects or to Permit Inspection
13 of Premises in a Civil Action to the Law Offices of the Public Defender of San
14 Bernardino County, Public Defender Phyllis Morris, dated August 2, 2017 (the
15 "Public Defender's Subpoena") served on the San Bernardino Public Defender's
16 Office (the "Public Defender") on August 3, 2017.

17 30. Attached hereto as **Exhibit 28** is true and correct copy of a list of
18 telephone numbers designated by the Public Defender as Private Numbers in
19 May 9, 2008 produced in response to the Public Defender's Subpoena.

20 31. Attached hereto as **Exhibit 29** is true and correct copy of a list of all
21 the Public Defender's telephone numbers as of August 15, 2017 produced in
22 response to the Public Defender's Subpoena.

23 32. Attached hereto as **Exhibit 30** is true and correct copy of a
24 Defendant's Responses to Plaintiff Kenneth Elliott's Request for Admissions for
25 Class Certification Issues (Set One) (the "Class RFAs").

26 33. Attached hereto as **Exhibit 31** is true and correct copy of Defendant's
27 Supplemental Responses to Plaintiff Kenneth Elliott's Class RFAs.

28

34. Attached hereto as **Exhibit 32** is a true and correct copy of the REPORT REGARDING OTHER ISSUES RELATED TO RECORDINGS OF CCA-LEAVENWORTH by SPECIAL MASTER DAVID R. COHEN in the case of *UNITED STATES OF AMERICA v. LORENZO BLACK* filed in the UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS, Case No. 16-CR-20032, on March 16, 2017 as Document 214. I downloaded a copy of this document from the district court's ECF website.

35. Attached hereto as **Exhibit 33** is a true and correction copy of the MEMORANDUM AND ORDER ON DEFENDANT'S MOTION TO SUPPRESS by District Judge Reginald C. Lindsay in the case of *UNITED STATES V. LAWRENCE NOVAK*, filed in the UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, Case No. 1:05-CR-10260-RGS, on or about October 2, 2006 as Document 26. I downloaded a copy of this document from the district court's ECF website.

36. Exhibits 3 through 22 (and any Call Reports attached thereto), 24 through 26, and 33 and 34 are the subject of Plaintiffs' Request for Judicial Notice in Support of Plaintiffs' Motion for Class Certification filed concurrently herewith. Plaintiffs are requesting the Court take judicial notice of Exs. 3 through 22, and 24 through 26, for the truth of the matters asserted therein under the exceptions to the hearsay rule set forth in Fed. R. Evid. 803(6), and the rules for authentication of evidence set forth in Fed. R. Evid. 902(11) (Exs. 3 through 22) and 901(a) and (b)(4) (Exs. 24 through 26).

37. Plaintiff has litigated this matter for over a year, served and responded to written discovery requests regarding class certification issues, and issued 11 third-party subpoenas to the San Diego, Riverside and San Bernardino Sheriffs' and District Attorneys' offices, the San Diego and San Bernardino Public Defenders' offices, and the United States Attorneys' offices for the Southern, Central, and Northern Districts of California. *See e.g.* Exs. 1 and 27.

1 38. Plaintiff has propounded 47 total discovery requests regarding class
2 certification issues. No documents were produced by Defendant in response to 25
3 Requests for Production. None of Plaintiffs' nine Interrogatories were answered.
4 11 out of 13 of Plaintiff's Requests for Admission were neither admitted nor
5 denied. On September 22, 2017 the Parties filed a Joint Motion for Determination
6 of Discovery Dispute in connection with Defendant's discovery responses (the
7 "Joint Motion"). *See* Dkt. 59. The Court's ruling on the Joint Motion is currently
8 pending.

9 39. In particular, Defendant was asked to admit, and did not deny, that
10 during the Class Period it recorded more 15,000 telephone calls and conversations
11 between attorneys and Detainees on Private Numbers. *See* Ex. 30, Req. 6 and Ex.
12 31, Req. 5. *See also* Exhibit 3 (Dkt. 59-3) to the Joint Motion.

13 40. Plaintiffs' counsel are currently investigating the facts regarding the
14 information provided in response the Sheriff's Subpoena, including the Call
15 Reports. For example, the Call Reports reveal that on May 19, 2014, Detainee
16 John Wiederkehr had a conversation with attorney James Dicks' on Mr. Dicks'
17 Private Number 760-630-2000. *See* Ex. 2. I have spoken with Mr. Wiederkehr
18 and he has asked and agreed to serve as an additional or substitute lead plaintiff in
19 the case. 760-630-2000 is also identified as a Private Number in Defendant's SCP
20 that should not be recorded, but was in fact recorded at some point in the year prior
21 to March 25, 2014. *See* Ex. 24.

22 41. As a result of the foregoing, Plaintiffs intend to file a joint motion or
23 application for modification of Plaintiff's deadline to amend the pleadings as soon
24 as possible after filing of the class certification motion so that: (a) Mr. Wiederkehr
25 and/or other parties identified by the Sheriff's Call Reports and Plaintiffs' counsels'
26 continuing investigation with the benefit of discovery may be added as a Plaintiff
27 to this action; and (b) the Complaint may be amended to seek and obtain relief
28 according to the evidence and proof.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Dated: October 10, 2017

/s/ Robert Teel

3 Robert Teel

4 *lawoffice@rlteel.com*

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